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District of Oregon
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Attorneys for the United States

UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re:

LAURA LEE HAGENAUER,
Debtor.

Case No: 14-63530-fra11

INTERNAL REVENUE SERVICE'S REPLY TO
US TRUSTEE RESPONSE (DOC. 244) TO
INTERNAL REVENUE SERVICE'S MOTION
TO CONVERT (DOC 233)

THE UNITED STATES OF AMERICA, on behalf of its agency, the Internal Revenue Service (the Service or IRS), respectfully replies to U.S. Trustee's Response (Doc. 244) for clarification of IRS's allegations.

The U. S. Trustee, in its response, page 3, Paragraph 7 states:

7. The IRS motion to convert (Doc. #230) alleges that the Debtor has not paid monthly payroll deposits of \$11,672 for April, May and June of 2015. The Debtor, however, has represented that she has paid substantial employee income tax withholding on the UST-36 portion of her Fed. R. Bankr. 2015 reports ("MORs") for April (\$5,281.07), May (\$4,343.59) and June (\$4,366.06). *See* Doc. ## 173, 185 and 211, respectively. It is unclear whether the amount that the IRS claims is owing already takes into account the amounts the Debtor says she paid or whether the Debtor misrepresented the payments in her MORs.

1 The IRS clarifies its allegations by the following and the Declaration of Susan Lathrop
2 (“Lathrop Decl.”) filed in conjunction with this reply.

3 IRS Insolvency has examined Plaintiff’s transcript of her IRS 941 deposits and what is still due
4 and owing for the second and third quarters of 2015. Plaintiff, as an employer, is required to make bi-
5 weekly deposits for IRS Form 941. For the second quarter of 2015, Plaintiff reported that the tax
6 liability for April, May, and June 2015 were the following:

7 April	\$13,269.24
8 May	\$11,076.35
9 June	\$11,855.09

10 for a total due of \$36,200.69. Lathrop Decl., Attachment 1, p. 5.

11 Plaintiff, on the following dates, made deposits in the amounts of:

12 June 22, 2015	\$9,012.87
13 June 29, 2015	\$8,680.38
14 June 30, 2015	\$6,834.72

15 for a total deposits of \$24,527.97. Lathrop Decl., Attachment 1, p. 2.

16 Penalties and interest for this quarter in the amounts of:

17 Federal tax deposit penalty	\$3,048.00
18 Penalty for late payment of tax	\$175.09
19 Interest charged for late payment	\$70.24

20 for a total of interest and penalties due of \$3,293.33. Lathrop Decl., Attachment 1, p. 2.

21 The remainder owing after crediting Plaintiff for deposits and not taking into account the amount owed
22 for interest and penalties is \$11,672.72. A further examination of Plaintiff’s 941 responsibilities shows
23 that there has been one deposit for the third quarter encompassing July, August, and September received
24 September 15, 2015 in the amount of \$6,487.91. Lathrop Decl. Attachment 1, p. 3-4. It should be noted
25 that Debtor has not filed her third quarter 941 return at the time of this filing, as the filing of this reply
26
27
28

1 and the due date fall on the same day, and she has made one out of the six required bi-weekly deposits.

2 *Id.*

3
4 DATED this 30th day of September, 2015.

5 Respectfully submitted,

6 S. AMANDA MARSHALL

7 United States Attorney

8 District of Oregon

9 /s/ Kathleen Bickers

10 KATHLEEN BICKERS

11 Assistant United States Attorney

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing **INTERNAL REVENUE SERVICE'S REPLY TO US TRUSTEE RESPONSE (DOC. 244) TO INTERNAL REVENUE SERVICE'S MOTION TO CONVERT (DOC 233)**, was served on 09/30/2015, by mailing a true copy addressed to the following, except those designated as receiving ECF notice, who will be served electronically by ECF:

Alex Rhoten
Coldwell Banker Commercial
960 Liberty St SE #250
Salem OR 97302
Creditor

Tiffany Jones
Coldwell Banker Commercial
960 Liberty St SE #250
Salem OR 97302
Creditor

Paul Harrison
Harrison Management Company
POB 80096
Portland OR 97280-1096
Creditor

Scott D. Fink, Attorney for Creditor KeyBank, N.A.	ECF Only
Carolyn G. Wade, Attorney for Creditor Oregon Business Development Dept.	ECF Only
John D. Albert, Attorney for Creditor Valley Development Initiatives	ECF Only
Brandy A. Sargent, Attorney for Creditor Cascadia Metals, Inc.,	ECF Only
David Anderson, Attorney for Creditor Key Bank, N.A.	ECF Only
Keith A. Trefry, Attorney for Creditor Assoc. Management Consultants Inc.	ECF Only
Garrett Shea Ledgerwood, Attorney for Creditor Penske Truck Leasing	ECF Only
Tara J. Schleicher, Attorney for Creditor Committee	ECF Only
Ted A Troutman, Debtors' Attorney	ECF Only
US Trustee, Eugene	ECF Only

/s/ Kathleen L. Bickers
KATHLEEN L. BICKERS #85151
Assistant United States Attorney

BILLY J. WILLIAMS, OSB #90136

Acting United States Attorney
District of Oregon

KATHLEEN L. BICKERS, OSB # 85151

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1000 SW 3rd Ave., Ste. 600
Portland, Oregon 97204
Telephone: (503) 727-1060
Attorneys for the United States

UNITED STATES BANKRUPTCY COURT

DISTRICT OF OREGON

In re:

Case No: 14-63530-fra11

LAURA L. HAGENAUER,

Debtor.

DECLARATION OF SUSAN L. LATHROP

I, Susan L. Lathrop, hereby make the following declaration pursuant to 28 U.S.C. § 1746. I make this declaration on personal knowledge and, if called upon to do so, I could and would competently testify to the following matters.

1. I am employed as a Bankruptcy Specialist Advisor for the Internal Revenue Service, United States Department of Treasury. In this position I have access to various IRS databases and official records maintained by the IRS and monitor various bankruptcy cases within the State of Oregon.

- 1 2. As part of my monitoring responsibilities, I watch for compliance by debtors for the
2 filing of required tax returns and forms, payment of tax liability, deposits, during their
3 pending bankruptcy by the court using IRS databases.
4
- 5 3. One of IRS's computerized information databases is the taxpayer's account transcript.
- 6 4. Reviewing a taxpayer's account, I am able to monitor payments, returns, assessments,
7 and penalties for debtors in bankruptcy.
- 8 5. I am the Bankruptcy Specialist Advisor assigned to monitor Laura Lee Hagenauer's
9 ("Mrs. Hagenauer") bankruptcy proceedings and those matters involving the interests of
10 the IRS.
11
- 12 6. Mrs. Hagenauer's Account Transcript shows that Mrs. Hagenauer has failed to timely
13 make the required deposits for the amounts reported on her Form 941 for the Second
14 Quarter ending June 30, 2015 and has only made one out of six required bi-weekly
15 deposits for the Third Quarter reporting period ending September 30, 2015. Attached
16 hereto as Attachment 1 is a copy of Mrs. Hagenauer's Account Transcript for the
17 Second and Third Quarter filing periods for Valley Rolling's Form 941 Return.
18
- 19 7. Form 941 requires that Mrs. Hagenauer make bi-weekly deposits during the quarter and
20 file the 941 by the final date of that quarter.
21
- 22 8. Mrs. Hagenauer reported tax liability for the Second Quarter 941 is \$36,200.69.
23 Attachment 1, p. 1
- 24 9. Mrs. Hagenauer made deposits on June 22, 2015 in the amount of \$9,012.87, June 29,
25 2015 in the amount of \$8,680.38, and June 30, 2015 in the amount of \$6,834.72.
26 Attachment 1, p. 2. The total of these deposits is \$24,527.97 for the Second Quarter 941
27 liability. This leaves \$11,672.72 due and owing for that quarter.
28

- 1 10. There is an additional \$3,293.33 in penalties and interest. Attachment 1, p. 2. The total
2 now due and owing for the Second Quarter 2015 is \$14,966.05.
3
4 11. Mrs. Hagenauer's Account Transcript for Third Quarter 2015 shows that as of
5 September 25, 2015, she made one deposit out of the six required for the Third Quarter
6 Form 941 on September 15, 2015 in the amount of \$6,487.91. The Third Quarter 941
7 tax period ends September 30, 2015.
8
9

10 Executed this 30th day of September 2015 at Portland, Oregon.

11 
12 SUSAN L. LATHROP
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CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing DECLARATION OF
SUSAN L. LATHROP, was served on 09/30/2015, by mailing a true copy addressed to the
following, except those designated as receiving ECF notice, who will be served electronically
by ECF:

Alex Rhoten
Coldwell Banker Commercial
960 Liberty St SE #250
Salem OR 97302
Creditor

Tiffany Jones
Coldwell Banker Commercial
960 Liberty St SE #250
Salem OR 97302
Creditor

Paul Harrison
Harrison Management Company
POB 80096
Portland OR 97280-1096
Creditor

Scott D. Fink, Attorney for Creditor KeyBank, N.A.	ECF Only
Carolyn G Wade, Attorney for Creditor Oregon Business Development Dept.	ECF Only
John D. Albert, Attorney for Creditor Valley Development Initiatives	ECF Only
Brandy A Sargent, Attorney for Creditor Cascadia Metals, Inc.,	ECF Only
David Anderson, Attorney for Creditor Key Bank, N.A.	ECF Only
Keith A Trefry, Attorney for Creditor Assoc. Management Consultants Inc	ECF Only
Garrett Shea Ledgerwood, Attorney for Creditor Penske Truck Leasing	ECF Only
Tara J Schleicher, Attorney for Creditor Committee	ECF Only
Ted A Troutman, Debtors' Attorney	ECF Only
US Trustee, Eugene	ECF Only

/s/ Kathleen L. Bickers
KATHLEEN L. BICKERS #85151
Assistant United States Attorney



This Product Contains Sensitive Taxpayer Data

Account Transcript

Request Date: 09-25-2015
Response Date: 09-25-2015
Tracking Number: [REDACTED]

FORM NUMBER: 941
TAX PERIOD: Jun. 30, 2015

TAXPAYER IDENTIFICATION NUMBER: [REDACTED]

LAURA L HAGENAUER
VALLEY ROLLING
3071 SCHMIDT LN
HUBBARD, OR 97032-9806-718

--- ANY MINUS SIGN SHOWN BELOW SIGNIFIES A CREDIT AMOUNT ---

ACCOUNT BALANCE: \$14,966.05
ACCRUED INTEREST: \$0.00 AS OF: Oct. 12, 2015
ACCRUED PENALTY: \$0.00 AS OF: Jul. 31, 2015

ACCOUNT BALANCE PLUS ACCRUALS
(THIS IS NOT A PAYOFF AMOUNT): \$14,966.05

** INFORMATION FROM THE RETURN OR AS ADJUSTED **

TAX PER TAXPAYER: \$36,200.69

RETURN DUE DATE OR RETURN RECEIVED DATE (WHICHEVER IS LATER) Aug. 05, 2015
PROCESSED DATE Oct. 12, 2015

TRANSACTIONS

CODE	EXPLANATION OF TRANSACTION	CYCLE	DATE	AMOUNT
------	----------------------------	-------	------	--------

150	Tax return filed	201538	10-12-2015	\$36,200.69
n/a	29141-248-80634-5			
650	Federal tax deposit		06-22-2015	-\$9,012.87
650	Federal tax deposit		06-29-2015	-\$8,680.38
650	Federal tax deposit		06-30-2015	-\$6,834.72
186	Federal tax deposit penalty	201538	10-12-2015	\$3,048.00
276	Penalty for late payment of tax	201538	10-12-2015	\$175.09
196	Interest charged for late payment	201538	10-12-2015	\$70.24

This Product Contains Sensitive Taxpayer Data



This Product Contains Sensitive Taxpayer Data

Account Transcript

Request Date: 09-25-2015
Response Date: 09-25-2015
Tracking Number: [REDACTED]

FORM NUMBER: 941
TAX PERIOD: Sep. 30, 2015

TAXPAYER IDENTIFICATION NUMBER: [REDACTED]

LAURA L HAGENAUER
VALLEY ROLLING
3071 SCHMIDT LN
HUBBARD, OR 97032-9806-718

--- ANY MINUS SIGN SHOWN BELOW SIGNIFIES A CREDIT AMOUNT ---

ACCOUNT BALANCE: -\$6,487.91
ACCRUED INTEREST: \$0.00 AS OF: Oct. 12, 2015
ACCRUED PENALTY: \$0.00 AS OF:

ACCOUNT BALANCE PLUS ACCRUALS
(THIS IS NOT A PAYOFF AMOUNT): -\$6,487.91

** INFORMATION FROM THE RETURN OR AS ADJUSTED **

TAX PER TAXPAYER: 0.00

RETURN NOT PRESENT FOR THIS ACCOUNT

TRANSACTIONS

CODE	EXPLANATION OF TRANSACTION	CYCLE	DATE	AMOUNT
------	----------------------------	-------	------	--------

n/a No tax return filed

650 Federal tax deposit

09-15-2015 -\$6,487.91

This Product Contains Sensitive Taxpayer Data

Schedule B (Form 941):**Report of Tax Liability for Semiweekly Schedule Depositors**

(Rev. January 2014)

Department of the Treasury - Internal Revenue Service

OMB No. 1545-0029

Employer identification number
(EIN)

Name (not your trade name)

Laura L. Hagenauer dba Valley Rolling

Calendar year

2 0 1 5

(Also check quarter)

Report for this Quarter...

(Check one.)

- ☐ 1: January, February, March
- ☒ 2: April, May, June
- ☐ 3: July, August, September
- ☐ 4: October, November, December

Use this schedule to show your TAX LIABILITY for the quarter; DO NOT use it to show your deposits. When you file this form with Form 941 or Form 941-SS, DO NOT change your tax liability by adjustments reported on any Forms 941-X or 944-X. You must fill out this form and attach it to Form 941 or Form 941-SS if you are a semiweekly schedule depositor or became one because your accumulated tax liability on any day was \$100,000 or more. Write your daily tax liability on the numbered space that corresponds to the date wages were paid. See Section 11 in Pub. 15 (Circular E), Employer's Tax Guide, for details.

Month 1

1		9		17	6749. 92	25	
2		10		18		26	
3	6519. 32	11		19		27	
4		12		20		28	
5		13		21		29	
6		14		22		30	
7		15		23		31	
8		16		24			

Tax liability for Month 1

13269. 24

Month 2

1		9		17		25	
2		10		18		26	
3		11		19		27	
4		12		20		28	
5		13		21		29	5541. 87
6		14		22		30	
7		15	5534. 48	23		31	
8		16		24			

Tax liability for Month 2

11076. 35

Month 3

1		9		17		25	
2		10		18		26	6096. 12
3		11		19		27	
4		12	5758. 97	20		28	
5		13		21		29	
6		14		22		30	
7		15		23		31	
8		16		24			

Tax liability for Month 3

11855. 09

Fill in your total liability for the quarter (Month 1 + Month 2 + Month 3).

Total must equal line 10 on Form 941 or Form 941-SS.

Total liability for the quarter

36200. 69

For Paperwork Reduction Act Notice, see separate instructions.

IRS.gov/form941

Cat. No. 11967Q

Schedule B (Form 941) (Rev. 1-2014)

09/25/2015 5:03PM (GMT-05:00)

In re Hagenauer,
14-63530-fra11Lathrop Declaration
Case 14-63530-fra11 Doc 248 Filed 09/30/15

Attachment 1, Page 5 of 5